

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOMINIC (AKA DIAMOND) VARGAS,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

1:20-cv-00083-NONE-JLT (PC)

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL**

(Doc. 21)

On August 12, 2021, Plaintiff filed a motion seeking the appointment of counsel. (Doc. 21.) Currently pending before the Court Plaintiff's second amended complaint, which will be screened by the Court in due course. (*See* Doc. 20.)

Plaintiff does not have a constitutional right to appointed counsel in this action, *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). The Court may request the voluntary assistance of counsel under section 1915(e)(1). *Rand*, 113 F.3d at 1525. However, without a reasonable method of securing and compensating counsel, the Court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether exceptional circumstances exist, the district court must

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1 evaluate both the likelihood of success of the merits and the ability of the plaintiff to articulate his
2 claims *pro se* in light of the complexity of the legal issues involved. *Id.*

3 Presently, the Court does not find the required exceptional circumstances. Even assuming
4 that Plaintiff is not well-versed in the law and that he has made serious allegations, which, if
5 proved, would entitle him to relief, his case is not exceptional. This Court is faced with similar
6 cases. At this early stage in the proceedings, the Court cannot determine whether Plaintiff is likely
7 to succeed on the merits. Moreover, based on a review of the record, the Court finds that Plaintiff
8 can articulate his claims adequately. *Id.* For the foregoing reasons, the Court **DENIES**
9 **WITHOUT PREJUDICE** Plaintiff's motion for the appointment of counsel. (Doc. 21.)

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11 IT IS SO ORDERED.

12 Dated: August 15, 2021

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE